

**FISH AND WILDLIFE SERVICE
LAW ENFORCEMENT**

Law Enforcement

Part 445 Searches, Seizures, Detention, Arrests, and Evidence

Chapter 3 Evidence

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3.1 What is the purpose of this chapter? This chapter provides information for all Service officers about how to use the Rules of Evidence for United States Courts and Magistrates.

3.2 What are the authorities for this chapter? The authorities for this chapter are:

A. 16 U.S.C.

B. 446 DM, Law Enforcement.

3.3 In addition to following the guidance in this chapter, what rules of evidence do Service officers need to know? Since rules of evidence change based on case law, Service officers should refer to the current edition of Rules of Evidence for United States Courts and Magistrates, which is published each year. Exhibit 1 is an index of the Rules of Evidence for United States Courts and Magistrates.

3.4 What physical evidence does a Service officer collect?

A. Introduction. This section defines and describes categories of physical evidence we commonly associate with investigations of wildlife violations. It also provides general guidelines for recognizing, preserving, recording, marking, tagging, and packaging physical evidence items. It includes brief instructions for handling “fragile” items and other specific types of physical evidence. For more detailed packaging and shipping procedures, Service officers should consult 448 FW 1, Submission of Evidence to the National Fish and Wildlife Forensic Laboratory (Lab), or contact the Lab in Ashland, Oregon.

B. Definition of Physical Evidence. Physical evidence is any object, or physical characteristic of an object, that we can use to establish the commission of a violation or to establish a link between the suspect, the victim, and the crime scene. Physical evidence also includes any object, or impression of an object that a subject takes from or leaves at a crime scene or which is otherwise related to a violation.

C. Purpose of Physical Evidence Collection. Service officers investigate possible wildlife violations to determine facts and bring suspected violators to justice. Properly collecting and evaluating appropriate physical evidence helps an officer determine the accuracy of statements from witnesses and document the occurrence and the sequence of events of an unlawful act.

D. Categories of Physical Evidence. The categories below describe the most common types of evidence an officer is likely to encounter when investigating a possible wildlife violation. This list is not all inclusive. Depending on the circumstances of the investigation, almost any physical object can be an item of evidence. It is the responsibility of the investigator to recognize the critical elements of a violation and to thoroughly search for all relevant items of physical evidence necessary to document the violation.

(1) Ammunition and Spent Projectiles. Evidence includes loaded cartridges and shells, spent casings, bullets and shot, shot patterns, and arrows.

(2) Bones, Teeth, Beaks, Claws, and Horns. Evidence includes animal parts and products.

(3) Blood. Blood evidence includes wet blood, dried blood chips and scrapings, and blood-stained articles.

(4) Documents. Document evidence includes licenses, invoices, permits, and other documents in which the officer questions their origin, authenticity, or possible alterations, as well as documents that tend to substantiate a violation.

(5) Equipment and Supplies. Evidence may include tools, traps, nets, fishing tackle, bait, lures, containers, and other materials the officer suspects were used to take or transport wildlife illegally.

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(6) Explosives. Evidence includes gunpowder, dynamite compounds, grenades, and other explosive devices.

(7) Feathers. Feather evidence includes down, feathers, and feather products.

(8) Fracture Evidence. Sometimes called “jig-saw puzzle” evidence, fracture evidence may include pieces of broken glass, fractured metal and plastic vehicle parts, torn pieces of paper, bone chips, and paint chips.

(9) Gunshot Residues. Evidence includes gunpowder patterns, gunpowder and primer residues found on the hands or clothing of subjects, and residues found on firearms and in wounds.

(10) Hair and Fibers. Evidence includes loose hairs from human suspects and animals, loose fibers, and hair or fiber products.

(11) Hides and Furs. Evidence includes raw and tanned hides and furs, as well as leather and fur products.

(12) Impression Marks. Impression marks are produced by shoes, boots, tires, and other hard objects into a soft, impressionable surface such as dirt, mud, snow, asphalt, and wood. (See section 3.5 for more information on preserving fragile evidence.)

(13) Latent Prints. Prints are produced by the friction ridge deposits (oils, salts, and soluble proteins) of fingers, palms and feet. (See section 3.5 for more information on preserving fragile evidence.)

(14) Poisons. Evidence of poisons includes poisons in liquid or powder form, materials and methods used to deliver poisons, and poison residues in blood, tissues, and organs.

(15) Recordings. Recording evidence includes photographic negatives, videotapes, and audiotapes produced by suspects, witnesses, or investigating officers.

(16) Serial Numbers and Tags. Evidence includes possibly altered serial numbers on weapons, vehicles, vessels, and aircraft and possibly forged, altered, or re-used animal carcass tags.

(17) Tissue and Organs. Evidence includes fresh, frozen, and processed meats and organs, viscera, eggs, and decayed tissues.

(18) Tool Marks. Tool marks are impression or striation marks made by a tool edge coming into contact with a relatively soft surface such as wood, plastic, or soft metals.

(19) Trace Evidence. Trace evidence is a miscellaneous category that includes minute or microscopic items of evidence such as soil particles, glass and metal fragments, and unknown powders.

(20) Vehicles, Vessels, and Aircraft. Evidence includes any vehicle, vessel, or aircraft an officer suspects was used to commit a wildlife violation.

(21) Weapons. Weapons evidence is primarily rifles and pistols, but also may include bows, crossbows, spears, knives, clubs, and other implements the officer suspects were used to cause injury or death.

(22) Whole Animals. Evidence includes whole animal specimens, whether alive, wounded, dead, or preserved.

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(23) Wound Characteristics. Wound evidence includes cut-out wounds, photographs of wounds, and wound contents.

E. Locating Physical Evidence. Successfully collecting physical evidence to document a violation of law depends on an officer's understanding of the elements of the violation and his/her ability to properly search for and recognize items of physical evidence relevant to the crime. Officers usually search for physical evidence after personally observing a violation, locating the scene of a previously committed violation, or serving a search and/or arrest warrant.

3.5 What evidence is “fragile” and how do officers preserve it? In the process of searching for evidence, officers may locate certain items that are inherently fragile, either because of their own physical characteristics or the prevailing environment. Officers must collect these items (for example, small hairs or feathers subject to wind loss) immediately or preserve them so the officer can collect them later. Fragile items include, but are not limited to:

A. Footprints and Tire Tracks. These impression marks are often found in soft dirt or other unstable materials. Service officers may cover the impressions with boxes or buckets to provide sufficient protection from wind, rain, and other elements. If possible, officers should photograph the impression marks immediately using a tripod-mounted camera and a marked ruler next to the impression mark. If the impression mark contains distinctive wear marks or other distinguishing characteristics, officers should cast the mark in plaster or in sulfur (for impressions in snow).

B. Latent Fingerprints. Service officers should protect items suspected of bearing latent fingerprints against careless handling as well as from the elements (wind, rain, snow, etc.). In addition to covering or securing such items, officers should mark or tag them (for example, "FOR LATENTS, DO NOT TOUCH"). See 448 FW 1 for packing and shipping instructions.

C. Wet Blood. If collected properly and immediately delivered to the Lab, wet blood is far more desirable as evidence to determine species and other typing factors than dried blood. However, wet blood samples decompose rapidly, particularly in hot weather. Officers should contact the Lab about the desired collection procedure before collecting blood samples at a crime scene. Officers should collect wet blood as a stain on a piece of air-dried, clean white cloth that has been thoroughly rinsed to remove soap. Officers should allow wet blood stains found on clothing or other transportable items to air dry indoors before they package the stains in paper bags or envelopes. Officers should never place wet blood or blood stains in plastic bags because decomposition will occur very rapidly (see 448 FW 1 for more detailed information).

3.6 What is the process for recording the seizure of physical evidence? Whenever an officer seizes or collects physical evidence, he/she must prepare a record describing the details of the collection process. This record usually consists of scene notes, sketches, and photographs (or videotapes), which the officer compiles into the finished investigative report. The extent of this record depends on the nature of the violation, the amount of evidence collected, and the circumstances under which the collection of evidence occurs. Service officers must always prepare the record at the time of collection so that all notes, sketches, and photographs accurately reflect the circumstances of the seizure.

A. General Requirements. While a number of procedures and formats are available for preparing an evidence collection record, certain details must be present in all reports:

- (1) Case file (INV) number, if available.
- (2) Date and time of seizure (start and finish).

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(3) Location of seizure (name of location and address).

(4) Name of suspect(s).

(5) A brief summary of the details of the seizure.

(6) Names of all people participating in the seizure.

(7) Description of all items seized (including assigned item numbers if blue Evidence ID Tags are used, or Seizure Tag Numbers).

(8) Locations where individual items were found.

(9) Name(s) of the officer(s) who located and/or collected each item seized.

(10) Name(s) of the officer(s) who took photographs or prepared a scene sketch.

B. Notes. Note taking is the most common method of documenting the collection of evidence.

(1) **Purpose.** The purpose of note taking is to answer the basic investigative questions:

(a) Who,

(b) What,

(c) When,

(d) Where,

(e) Why, and

(f) How.

(2) **Formats.** Officers usually handwrite notes. Officers may also record notes orally on a cassette tape recorder. Officers should place original notes prepared during the seizure of evidence, whether in written or recorded form, in the 1-A Exhibit Envelope of the case file. The following forms are available to simplify the process of recording scene notes during major investigations:

(a) **Evidence Collection Notes (Form 3-2070).** This form can simplify the process of taking handwritten notes when officers collect evidence in the field. Service officers may record details of the collection in the space provided. Officers should include these notes as an insert to the investigative report.

(b) **Located Evidence List (Form 3-2069).** Service officers can use the Located Evidence List as a supplemental page to the Evidence Collection Notes (Form 3-2070) or separately as an insert for the investigative report, when they collect a large number of evidence items.

C. Sketches. A rough sketch of the scene, indicating where an officer found items of evidence, can be valuable in refreshing the officer's memory of the seizure before he/she prepares an investigative report or testifies in court. A sketch is a rough approximation of the scene which places items and locations in perspective to each other. A sketch should supplement but not replace photographs. Photographs provide more fine detail, but are less accurate in terms of perspective, than a sketch.

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(1) Types of Sketches.

(a) Rough Sketch. As the name implies, a rough sketch is a quick, hand-drawn diagram of a scene, usually on 8½ by 11 inch paper. It is rarely drawn to anything more than approximate scale. Accuracy depends on the measurements that locate relevant items and structures on the sketch. Service officers should locate all important evidence items on the rough sketch. As with other notes, officers should place the rough sketch in the 1-A Exhibit Envelope of the case file.

(b) Finished Sketch. Officers may prepare a finished sketch using a straight edge, ink, and 8½ by 11 inch paper, or graph paper, and include it in the investigative report. The finished sketch does not have to be drawn to scale, but should include all of the information (such as exterior and interior measurements) necessary to prepare a scale drawing of the scene for court presentation. Officers should locate all important evidence items on the finished sketch.

(c) Scale Drawing. A scale drawing is a blueprint of a scene, drawn to exact scale in ink on large display board for court presentation. Officers should not place dimensions, location measurements, and evidence item locations on the scale drawing. Prosecutors or the officer will add this information, as appropriate, during court proceedings.

(2) Components of a Scene Sketch. Service officers must include the following details on all rough and finished sketches:

(a) Case file (INV) number.

(b) Date and time sketch is drawn.

(c) Location of sketched scene (address or description of area).

(d) Approximate compass heading.

(e) The entire perimeter of the scene (additional sketches can be made of areas within the perimeter if necessary).

(f) Locations and descriptions of relatively fixed objects used as reference points for measurements.

(g) Locations of all collected items of evidence (usually located on the sketch by the assigned item number).

(h) Names of all officers involved in preparing the sketch, including the signature of the officer who drew the sketch.

D. Photographs. Photographs taken during the collection of physical evidence offer the most reliable and accurate means of recording a scene within the inherent limitations of perspective and possible distortion. Due to these limitations, Service officers should supplement scene photographs with a sketch when officers believe that the exact locations of evidence items are relevant to the case.

(1) Types of Crime Scene Photographs.

(a) Aerial Photographs. Aerial photography is an excellent supplement to scene sketching. Aerial photographs accurately record a large amount of scene area and relative object locations in detail, which is impossible to duplicate with measurement-and-sketch techniques. To avoid problems associated with distortion, Service officers should shoot aerial photographs perpendicular to the ground (not from an angle), whenever possible.

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(b) Overall Scene Photographs. Overall scene photographs should include shots taken from the outside of the scene perimeter into the scene and should show as much of the scene area in each photo as possible. When you combine all of the scene photographs, they should show the entire scene area. A wide-angle lens is useful for this type of photography. Whenever possible, Service officers should take the overall shots during the initial walk-through of the scene, before anyone moves any items of evidence from their original locations.

(c) Evidence Orientation Photographs. Before collecting evidence items, officers should photograph the items to show their location relative to other fixed objects at the scene. Officers should include an Evidence ID Tag indicating the date, the officer's initials, and assigned item number, or some other identifying material, in the photograph.

(d) Close-up Identification Photographs. Officers should photograph all items of evidence they collect close-up in order to identify the item in court.

(i) The photographs should include an Evidence ID Tag indicating the date, the officer's initials, and the assigned item number, or some other identifying material.

(ii) Officers must include a ruler or scale in addition to the ID material for close-up photographs of impression marks that will be used for comparison purposes.

(iii) Officers must take photographs with the camera pointed perpendicular to the impression surface and mounted on a tripod or other immobile support.

(e) Digital Images. Service officers may use digital cameras to record images intended for use as evidence. Officers must preserve the original digital image on a CD or floppy disk. Officers must not alter the original image in any way, but may enhance copies of the original image for investigative purposes.

(2) General Procedures for Evidence Photography. Service officers should use 35-millimeter (or larger) or digital photography equipment when taking evidentiary photographs.

(a) To avoid confusion, officers should not record scenes and evidence items from different cases on the same roll of film.

(b) Officers should record an Evidence ID Tag or other identifying material listing the date, the officer's name, and other case identifiers on at least one frame on each roll of film. This practice ensures that loose negatives can be properly identified at a later date.

(c) Officers should shoot all photographs judged important to the case twice. Taking two exposures will help ensure useable photographs.

(d) When shooting duplicate photos that are critical to a case, officers should use a separate roll of film whenever possible to ensure against loss during processing.

(e) Officers should develop rolls of film immediately and obtain a contact print sheet. Contact prints provide a reference sheet containing negative-sized copies of all photographs taken on a case. The officer can insert the sheet in the case report. This procedure also enables the officer to select appropriate frames to enlarge without making prints of all of the exposures. Officers should mark the contact sheet on the back with the name of the photographer, the date the pictures were taken, the case number, and any other necessary case reference information. Officers should also mark negative holders so that they can cross-reference the negatives with the contact sheets.

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(f) Officers should mark loose photographs on the back with the date of the photographs, name of the photographer, case number, and other identifying data. Peel-off labels are useful for this purpose because officers may need to remove some identifying information for court presentation.

(g) Officers should treat photographic negatives as original evidence in terms of security and chain-of-custody. Officers will place negatives in the 1-A Exhibit Envelope or otherwise store them as evidence in a secure storage area.

D. Video-recording. Video-recording offers an extremely useful and informative means of recording the collection of evidence at a scene. When produced, Service officers must mark and handle videotapes as original items of evidence.

3.7 Are there specific evidence collection procedures that a Service officer should know?

A. General Information. Forensic methods for analyzing and interpreting the significance of evidence items are continually revised and updated. Corresponding changes in collection techniques often accompany these revisions. Service Manual chapter 448 FW 1 contains collection guidelines that our Lab recommends. Officers should contact the Lab for specific collection and shipping instructions not found in 448 FW 1.

B. Weapons. For the safety of everyone involved in an investigation, officers should immediately unload all collected weapons. If officers want to process fingerprints, they should avoid handling the weapon on the smooth (metal and glossy-finished wood) surfaces whenever possible. Officers cannot collect usable latent prints off of rough or checkered wood surfaces. Ensuring human safety, however, must always outweigh any concern about damaging fingerprints.

C. Money. Whenever possible, two officers working together should collect money as evidence. Both officers should count the money in the presence of the subject, noting the denominations, and then place the money in a sealed container immediately after counting it. Both officers should sign the receipt issued to the subject for the money. Officers should make a record of the serial numbers on seized currency as soon as possible and place the record in the case file.

3.8 How does a Service officer tag evidence?

A. Purpose of Tagging Evidence. An Evidence Seizure Tag, attached to a single evidence item or to the outside of an evidence package, serves as the primary identifier of seized evidence. The Evidence Seizure Tag provides immediate access to the following information:

- (1) The case file (INV) number.
- (2) The date and time of seizure.
- (3) The subject's name or the location where the evidence was seized.
- (4) A brief description of the evidence (including any serial numbers). When used as an evidence package tag, the tag should describe all evidence items in the package.
- (5) The name and badge number of the officer who seized the evidence.
- (6) The chain-of-custody record for the evidence.

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B. Evidence Seizure Tag (Form 3-487). The Evidence Seizure Tag is a standard waterproof cloth tag. In addition to providing the identifying information listed above, the Evidence Seizure Tag also has a tear-off receipt that the officer may use in the field instead of the standard Property Receipt (Form 3-155 or 3-155a). Both the Evidence Seizure Tag and the tear-off receipt bear a unique seizure tag number which is the primary identifier of the seized evidence for case reports. In addition to the guidance below, also refer to 448 FW 1 for information about packaging evidence for shipment.

(1) Using the Evidence Seizure Tag. Service officers should fill out an Evidence Seizure Tag and attach it to each item of evidence seized, with the following exceptions:

(a) Officers can place groups of like items that have no individual significance as evidence, seized from the same location (for example, 100 turtle shell rings in a desk drawer), in one evidence package and identify the group with one Evidence Seizure Tag attached to the outside of the package.

(b) Officers should individually mark like items from one location that have individual significance as evidence, either by pen or with small blue Evidence ID Tags (Form 3-2052), before placing the items in the evidence package and identifying them with one Evidence Seizure Tag.

(2) Attaching the Evidence Seizure Tag. Officers should attach the Evidence Seizure Tag to each item or evidence package using string, wire, or nylon ties so that it will not come loose accidentally and so that the chain-of-custody record on the reverse side is accessible.

(3) Evidence Seizure Tag Number. The unique seizure tag number printed on the Evidence Seizure Tag and its tear-off receipt serves as the primary control number for identification and receipt of seized property because case file (INV) numbers are frequently not available at the time of seizure.

(4) Tear-off Receipt. When providing tear-off receipts for items seized in the field, an officer should mark the date and time of seizure, briefly describe the evidence, including any serial numbers, record his/her badge number, and sign the receipt. On the reverse side of the receipt is a space for the stamped name and address of the officer.

(5) Chain-of-Custody Record. The reverse side of each Evidence Seizure Tag provides a brief chain-of-custody record. See section 3.12 for additional guidance on chain-of-custody records.

(6) Evidence Return Acknowledgment. If an officer returns a seized item to a subject in the field, on the reverse side of the Evidence Seizure Tag there is a space for the subject to sign an acknowledgment of proper return. If officers use the return acknowledgment receipt, they should place the Evidence Seizure Tag in the 1-A Exhibit Envelope.

C. Evidence ID Tag (Form 3-2052). The small blue Evidence ID Tags serve three purposes in the Service evidence handling system:

(1) Item Identifier. Service officers may use Evidence ID Tags to individually identify a number of like items that have individual significance as evidence, but which they package under one Evidence Seizure Tag (Form 3-487). In this situation, officers mark each blue Evidence ID Tag with the same Evidence Seizure Tag number followed by a sequential letter (A, B, C, etc.) or sequential number (1, 2, 3, etc.) in the "item number" space. This procedure ensures that an officer can return and readily identify an item removed from its evidence package.

(2) Locator Tag. The small blue Evidence ID Tags also serve as "locator tags" during an extensive search that results in the seizure of numerous items of evidence.

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(a) Procedure. Officers may pre-mark the blue Evidence ID Tags with the date, the officer's name, and a sequential item number (1, 2, 3, etc.). As evidence items are located, officers can place the pre-marked ID tags next to each item for the purpose of photographic identification and sketch location, and then attach the tags to the collected item.

(b) Notes. Officers may list evidence items collected on the Evidence Collection Notes (Form 3-2070). Officers can list a large number of collected items on a Located Evidence List (Form 3-2069).

(c) Seizure Tag Numbers. Officers should mark the appropriate Evidence Seizure Tag (Form 3-487) numbers on the blue Evidence ID Tags and also note the Evidence Seizure Tag numbers on the Evidence Collection Notes (Form 3-2070) or the Located Evidence List (Form 3-2069).

(3) ID Tag for Outside Experts. We prefer officers also use the blue Evidence ID Tags (Form 3-2052) to identify individual items of evidence sent to an outside expert for forensic examination.

(a) Service officers must not release the information relating to the subject on the Evidence Seizure Tag (Form 3-487) to people outside of law enforcement agencies, unless necessary.

(b) Officers should remove seizure tags from items they are sending to outside forensic experts and replace them with Evidence ID Tags (Form 3-2052). Service officers can complete this record by printing the expert's name in the available space, recording the date of receipt (if known), and leaving the "Initials" space blank.

3.9 How does a Service officer package evidence? Service Manual chapter 448 FW 1 provides detailed information on the proper ways to package and ship evidence to the Lab. Generally, Service officers should package evidence to:

- A.** Prevent intermixing of evidence items from different cases.
- B.** Prevent accidental damage or contamination of the evidence.
- C.** Prevent deliberate tampering with the evidence.
- D.** Effectively transport evidence from one location to another.

3.10 What should a Service officer know about care, custody, and control of seized property?

A. Introduction. Once a Service officer seizes personal property, he/she and the Service become responsible for the care, custody, and control of that property. In the guidance below, we emphasize the requirement that one person be responsible for the proper care, custody, and control of every item of seized property, especially when more than one officer has access to a property storage facility. The possibility that any item of seized property may have value as evidence requires that officers treat all seized property items as evidence in terms of care, custody, and control. Seized property includes evidence and found property. See 310 FW 8 for instructions and policy involving disposal, accountability, and use of seized, forfeited, and abandoned property.

B. Custody and Storage of Seized Property.

(1) General Requirements. One person must always be responsible for the care, custody, and control of each item of seized evidence. The officer who takes possession of the property at the time of seizure is initially responsible for the care, custody, and control of the property. That officer must keep the items stored safely and securely until they are properly transferred to another officer or evidence custodian.

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(2) Grand Jury Material. Service officers are obligated to protect information and evidence obtained from grand jury testimony or subpoena. Service officers should consult with the U.S. Attorney concerning the storage and disclosure of grand jury material. Service officers must have the names of Service personnel listed on the 6(e) disclosure list prior to disclosing grand jury material in case reports.

(3) Storage Facilities. Each Service law enforcement office must have secure storage facilities that are adequate to store all items of seized evidence. Such facilities may include, but are not limited to, lockable drawers, cabinets, safes, refrigerators, rooms, buildings, and warehouses. The first line supervisor for any area or refuge must maintain a list of all evidence storage facilities used by Service officers under his/her direction. Higher-level Service supervisors should have access to this list if necessary.

(4) Security of Storage Facilities. Security of all storage facilities for seized evidence must be sufficient in terms of walls, ceilings, locking devices, and physical location to prevent unauthorized individuals from accessing evidence items in all but the most extreme circumstances (for example, forced entry into the facility). Officers should base the selection of appropriate storage facilities on the value and type of items maintained as evidence. Officers should store items such as weapons, ammunition, and currency under the most secure conditions reasonably available. Officers can store seized boats, vehicles, and aircraft in open storage facilities in a manner reasonably secure from theft and damage.

(5) Evidence Custodian. Officers must strictly control access to seized evidence items in storage facilities to maintain specific responsibility for these items. Officers must limit primary access to evidence items in a storage facility to one officer or responsible individual who is designated as the evidence custodian and who possesses the single readily available key or access code for the locking mechanism to the facility. If the officer making the seizure is the only one with access to the evidence storage location, then that officer functions as the evidence custodian.

(6) Evidence Storage Log (Form 3-2064). The Evidence Storage Log (Form 3-2064) is a chronological record of all items of seized evidence transferred IN or OUT of a storage facility. This log must reflect all of the contents of the facility at any given time. See section 3.11 for instructions for completing Form 3-2064.

(7) Security of Storage Facility Keys and Codes. The evidence custodian is primarily responsible for the security of all storage facility keys and access codes. The evidence custodian should mark all storage facility keys "DO NOT DUPLICATE." If someone uses a sealed secondary access key, the evidence custodian should re-seal the key in an initialed envelope as soon as possible. If someone uses a sealed secondary access code, the evidence custodian should change the lock code immediately and re-seal the new code in an initialed envelope. If someone loses a storage facility key, the evidence custodian should re-key the lock or replace it immediately.

(8) Secondary Access to Storage Facilities. Because the evidence custodian may not always be available to provide access to the facility, specific authorized people must have temporary access to a sealed secondary access key or copy of the sealed secondary access code for each secured storage facility. The evidence custodian may place the keys or codes in sealed envelopes and lock them in a safe that is accessible only to the specified people. Proper use of the secondary access key or code is critical to the integrity of the evidence system.

(a) Secondary Access Procedures. If someone uses a sealed secondary access key or sealed secondary access code, an authorized person should record any transfers of seized property into or out of the storage facility. To record this information, they should use an Evidence Storage Log (Form 3-2064) or other similar evidence storage log devised by the particular office. If they use an alternate log, it must contain all of the same information found on Form 3-2064. Authorized people should notify the evidence custodian as soon as possible that a sealed secondary access key or code has been used.

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(b) Evidence Custodian Responsibility. The evidence custodian must confirm that the contents of the storage facility correspond with all inventory records and reseal the secondary access key or change the secondary access code.

(9) Identification of Items in Storage. The evidence custodian must ensure that all seized evidence items placed in a storage facility are properly marked, tagged, and packaged so that:

(a) The value and integrity of the items are preserved, and

(b) The items can be positively identified at a later date.

(10) Separation of Seized Evidence from Forfeited and Abandoned Property. The evidence custodian should store items of seized evidence separately from items forfeited or abandoned to the Government. If separate storage facilities are not available, the evidence custodian should clearly mark or tag (not with Evidence Seizure or ID Tags) Government property items to avoid confusion with seized property items. Security procedures described in this chapter apply only to the storage of seized property.

(11) Evidence in 1-A Exhibit Envelopes. Officers must store 1-A Exhibit Envelopes containing items of evidence in a safe or other secured evidence storage facility.

(12) Authority to Release Seized Property from Storage. The evidence custodian may not release items placed in their custody for storage to anyone other than the case officer (usually the officer who placed the items into storage) without the written permission of the case officer or the case officer's supervisor.

(13) Storage Inventory Records. The evidence custodian must maintain records for each storage facility that accurately document the seized property items currently in storage and the disposition of items transferred out of the storage facility. If the storage facility contains evidence items seized by officers other than the evidence custodian, the evidence custodian should use the Evidence Storage Log (Form 3-2064) or some similarly formatted record for inventory control. Alternate records should contain all of the required information found on Form 3-2064. Evidence custodians may always use other recordkeeping formats (for example, index cards) to supplement the Evidence Storage Log.

(14) Semi-Annual Inventory of Storage Facilities. Regardless of the method used to inventory the contents of each storage facility, an evidence custodian must be able to account for all items of seized evidence transferred into or out of the facility at any time. The evidence custodian's supervisor should semi-annually inspect the seized evidence and report any unresolved discrepancies between the evidence records and the actual contents of the storage facility to the Special Agent in Charge (SAC); Regional Chief, NWRS; or California/Nevada Operations Office (CNO) Chief, NWRS, as appropriate. If items of seized property are missing or remain unaccounted for, the SAC, or Regional/CNO Chief, NWRS must review and resolve the discrepancies.

3.11 How does the evidence custodian complete the Evidence Storage Log (Form 3-2064)?

A. Logging Items into an Evidence Storage Facility. When logging items into an evidence storage facility, the evidence custodian should complete the next available transfer block on the Evidence Storage Log sheet as follows:

(1) Log Entry Number. Use the next log entry number in sequence (1, 2, 3, etc.) as a unique reference number to cross-reference the transfer of a specific group of seized property items from a specific case into the storage facility. The evidence custodian should also mark this log number and his/her initials on

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each evidence package (or Evidence Seizure Tag, Form 3-487) transferred for cross-referencing, locating, and check-out purposes.

(2) INV Number. Record the INV number assigned to the case.

(3) IN or OUT. Circle "IN" on the log.

(4) Date and Time of Transfer. Record the date and time he/she puts the items into the storage facility.

(5) Subject. Record the name of the individual from whom the property was seized, if available. This information is a useful reference if the INV number is not available.

(6) Brief Description of Evidence. Describe all significant items being placed into storage, using Evidence Seizure Tag (Form 3-487) numbers or item numbers, when appropriate, for reference. Use additional space blocks if needed to list all significant items that might be removed individually from the storage facility at a later date.

(7) Received From/Released To. Cross out "TO" and print the name of the officer who transferred the items.

(8) Evidence Custodian (Signature). The person who puts seized property items into the evidence storage facility signs in this space. This must be a person with authorized access to the storage facility and is usually the evidence custodian. The Evidence Storage Log is not a chain-of-custody record. Sign and take custody of the original Form 3-2063, Chain-of-Custody Record, and give the transferring officer a proper receipt for the transferred items.

(9) Previous Log Entry Number Reference. Leave this space blank.

(10) Comments and Reason for Removal. Use this space to record additional reference information.

B. Logging Items out of an Evidence Storage Facility. When logging items out of an evidence storage facility, the evidence custodian should use the next available empty transfer block on the Evidence Storage Log as follows:

(1) Log Entry Number. Record the next log entry number in sequence (1, 2, 3, etc.).

(2) INV Number. Record the INV number assigned to the group of evidence items being transferred out of the storage facility. The evidence custodian cannot log out items with different INV numbers under the same log entry number.

(3) IN or OUT. Circle "OUT."

(4) Date and Time of Transfer. Record the date and time the items are transferred out of the storage facility.

(5) Subject. Record the name of the subject from whom the items were seized, if available.

(6) Brief Description of Evidence. Briefly describe all significant items being transferred out of the storage facility. The description should correspond with the description on the incoming transfer block. If all items previously listed under an incoming log entry number are being transferred out of the storage facility, the evidence custodian should write, "All Items From Log Entry Number (insert previous incoming log entry number)."

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(7) Received From/Released To. Cross out “FROM” and record the name of the individual to whom the items are being transferred.

(8) Evidence Custodian (Signature). The person (usually the evidence custodian) who transfers the items out of the evidence storage facility signs in this space.

(9) Previous Log Entry Number Reference. Record the initial incoming log entry number for the items being transferred out of the facility in this space. This practice provides an easy cross-reference, allowing the evidence custodian to periodically inventory the contents of the evidence storage facility against the Evidence Storage Log. The initial incoming log entry number should already be marked on each evidence package or Evidence Seizure Tag (Form 3-487) for easy cross-referencing.

(10) Comments/Reason for Removal. Use this space to record additional reference information. If applicable, indicate the transfer of seized evidence items to Government property status for disposal to maintain a paper trail for property items.

(11) Log Clearance. As items of seized evidence are transferred out of the storage facility, clear them from the Evidence Storage Log. The remaining item descriptions should reflect the contents of the storage facility.

(12) Re-entry of Cleared Items. If an item that was transferred out of a storage facility is transferred back in again, record the reentry on a new log entry block (new Log Entry Number, etc.).

3.12 When does a Service officer need to use a Chain-of-Custody Record?

A. General Requirements. A record of the continuity of possession (or chain-of-custody) of an item of evidence is important in determining whether it will be admissible in court. It is vital that Service officers maintain an accurate record of all individuals who are in possession and control of items of seized property. Service officers may use two forms to keep chain-of-custody records:

(1) Officers may use the reverse side of each Evidence Seizure Tag (Form 3-487) for simple chain-of-custody records.

(2) Officers may also use the Chain-of-Custody Record (Form 3-2063). Service officers must use the Chain-of-Custody Record to fully document the chain-of-custody whenever they transfer evidence to another agency or to a lab for forensic analysis, or any time they split a group of seized items. Form 3-2063 is the chain-of-custody record. It allows Service officers to better document the chain of evidence and the reason for the transfer of the evidence. The chain-of-custody record must document every person who takes possession of an item of seized property (also see 310 FW 8).

B. Procedure. When each officer takes possession of an item of evidence or evidence package, he/she should:

(1) Mark the date of possession, his/her printed name, and his/her initials in the next available space on the back of the Evidence Seizure Tag (Form 3-487), or

(2) Complete the Chain-of-Custody Record (Form 3-2063). See the guidance below on how to use the Chain-of-Custody Record (Form 3-2063).

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C. Chain-of-Custody Record (Form 3-2063).

(1) Completing a Chain-of-Custody Record on Form 3-2063. If a Service officer requires or uses a Chain-of-Custody Record (Form 3-2063), the officer who initially transfers the possession of seized property to the other person must complete the form.

(2) Completing the Chain-of-Custody Record (Form 3-2063) as a continuation from an Evidence Seizure Tag (Form 3-487). Service officers may continue a chain-of-custody on Form 3-2063 that originally began on the back of an Evidence Seizure Tag (Form 3-487). In this case, an officer receiving the property signs the Evidence Seizure Tag and begins a Chain-of-Custody Record (Form 3-2063). This form becomes the official chain-of-custody record and officers must use it to document all remaining property transfers. Service officers should note on the back of the Seizure Tag that they are continuing the chain-of-custody on a Form 3-2063.

(3) Assigning Item Numbers. Officers may assign unique item numbers to the items of seized property listed on the Chain-of-Custody Record. This practice allows the officer to use item numbers to describe the individual items being transferred in the transfer-of-possession blocks.

(4) Disposition of the Original Chain-of-Custody Record. The original Chain-of-Custody Record (Form 3-2063) must remain with the seized property items when they are transferred from one person to another. The officer should place the original Form 3-2063 inside a string-closure manila envelope clearly marked "CHAIN-OF-CUSTODY RECORD" and attach that envelope to one of the evidence packages or items.

(5) Case File Record. The officer must place a brief memorandum describing the property transfer or a copy of the signed original Chain-of-Custody Record (Form 3-2063) in the case file to document each transfer of seized property items.

(6) Splitting Groups of Seized Property Items. If an officer splits groups of seized property items listed on one Chain-of-Custody Record and transfers the items to different individuals, the original Chain-of-Custody Record should follow the majority of the items. The officer transferring possession should complete additional original Chain-of-Custody Records (Form 3-2063) to accompany the split-off groups of seized property items. When an officer splits off seized property items from their original group and transfers them, the officer should record the transfer on the "first-generation" Chain-of-Custody Record as well as on the additional Chain-of-Custody Records for each split-off group of seized property items.

(7) Items Sent to Forensic Experts. When an officer sends seized property items to an outside expert for forensic examination, he/she must use the Chain-of-Custody Record (Form 3-2063). Service officers should record the transfer of the items on the original Chain-of-Custody Record (Form 3-2063) and send the original Transmittal Record (Form 3-2053) with the seized property items to the expert. See 448 FW 1 for instructions on how to send evidence to the Lab.

(8) Final Disposition of Original Chain-of-Custody Record. After the seized property items reach their final storage location (pending final disposition of the case), the officer should place the original Chain-of-Custody Record (Form 3-2063) in the 1-A Exhibit Envelope in the case report. If the officer subsequently transfers items to other locations or individuals, the officer should complete a new Chain-of-Custody Record (Form 3-2063) for that transfer.

(9) Transfer Receipts. When officer transfers seized property items from one person to another, officers can substitute copies of the Chain-of-Custody Record for receipts-of-transfer after the releasing and receiving officers have signed the original Chain-of-Custody Record (Form 3-2063).

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3.13 How does a Service officer transfer custody of seized property?

A. Preparing Seized Property for Release. The officer or other person authorized to release the property should confirm that the following custody records are complete and accurate before transferring custody of any items of seized property:

(1) Item ID Marks and Tags. The officer or other person authorized to make the transfer should confirm that every loose item and package of seized property he/she is transferring is properly marked and has an Evidence Seizure Tag (Form 3-487) attached. Service officers should only use the small blue Evidence ID Tags (Form 3-2052) to tag items within an evidence package, unless they are transferring the items to an outside forensic expert for examination.

(2) Marking Evidence Packages When Package Contents Are Split. If an officer is only transferring certain items from an evidence package of seized property, the officer should mark the outside of the package with the name of the person making the transfer, the date, item descriptions or assigned item numbers, and the words "ITEMS REMOVED." This practice helps the evidence custodian make a rapid and accurate inventory of seized property items in custody. Officers should repackage these items under a new Evidence Seizure Tag (Form 3-487), note the repackaging and the new Evidence Seizure Tag number on the original Chain-of-Custody Record (Form 3-2063), and report the new Evidence Seizure Tag number by memorandum or supplemental report to the case file.

(3) Chain-of-Custody Record. The person making the transfer should confirm that the appropriate chain-of-custody record is complete and shows the printed name, initials, and date that the property was transferred.

B. Transferring Seized Property in Person.

(1) The person releasing the property must:

(a) Complete and sign the next available release block on the original Chain-of-Custody Record (Form 3-2063), or appropriate Evidence Seizure Tag (Form 3-487), indicating all items are being transferred.

(b) If they are splitting items from a group of items listed on the "first generation" Form 3-2063, complete and sign a "second generation" original Chain-of-Custody Record.

(2) The person receiving the transfer must:

(a) Complete the required information on each Chain-of-Custody Form (Form 3-2063) or Evidence Seizure Tag (Form 3-487).

(b) Verify the descriptions and assigned item numbers of the seized property items they are receiving against the completed release block on each Chain-of-Custody Record (Form 3-2063).

(c) Complete and sign the corresponding receipt block on each Chain-of-Custody Record (Form 3-2063) or Evidence Seizure Tag (Form 3-487).

(d) Provide the person transferring the items with photocopies of each signed Chain-of-Custody Record (Form 3-2063) and Evidence Seizure Tag (Form 3-487), or an original Form 3-155 (or Form 3-155a) Property Receipt.

(e) Assume custody and control of the seized property items and the original chain-of-custody forms.

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C. Transferring Seized Property by U.S. Mail.

(1) The person releasing the property must:

(a) Complete and sign the next available release block on the original Chain-of-Custody Record (Form 3-2063) or Evidence Seizure Tag (Form 3-487) indicating all items being transferred.

(b) If splitting items from a group of items listed on the “first generation” Form 3-2063, complete and sign an original “second generation” Chain-of-Custody Record.

(c) Place all loose items in appropriate mailing packages. Place copies of the transmittal letter and/or copies of the Chain-of-Custody Record (Form 3-2063) or Evidence Seizure Tag (Form 3-487) in each mailing package.

(d) Seal all packages (using evidence tape, evidence seals, or initialed and dated tape) to prevent undetected access by unauthorized individuals.

(e) If using a Chain-of-Custody Record (Form 3-2063), place the original in an envelope clearly marked “CHAIN-OF-CUSTODY RECORD” or “INVOICE” and attach the envelope to one of the mailing packages.

(f) Mark each mailing package with the words “EVIDENCE” and “TO BE OPENED ONLY BY (receiving officer's name).” Indicate the total number of packages you are mailing (for example, “1 of 3”). See 448 FW 1 for more information about packing and shipping evidence to the Lab.

(g) Wrap all mailing packages with heavy wrapping paper or place them into another unmarked outer shipping container to conceal the evidence identifiers. Address the packages to the attention of the receiving person, and send via registered (for valuable or sensitive evidence) or certified U.S. mail, using a green U.S. Mail Return-Receipt Requested Form (PS Form 3811).

(h) If you use wooden boxes to ship property, enclose all transmittal and chain-of-custody material in plastic covers and nail them to the box. Wrap the box with heavy wrapping paper or place the box into another unmarked outer shipping container to conceal evidence identifiers.

(i) Place a circled letter “E” on the outside of each wrapped package or outer shipping container to alert the person receiving the package that it contains evidence.

(2) The person receiving the evidence must:

(a) Verify that they received all packages in a sealed condition and that all items correspond with the descriptions and assigned numbers listed on the enclosed original Chain-of-Custody Record (Form 3-2063).

(b) Complete and sign the corresponding receipt block on the original Chain-of-Custody Record (Form 3-2063) or Evidence Seizure Tag (Form 3-487).

(c) Immediately mail or fax a photocopy of the signed original Chain-of-Custody Record (Form 3-2063), the Evidence Seizure Tag (Form 3-487), or an original Form 3-155 (or Form 3-155a) Property Receipt to the person releasing the seized property.

3.14 Does a Service officer have to issue a receipt for seized property? The value and sensitivity attached to many items of seized property make it important that everyone issue and receive receipts for the transfer of these items. Service officers will issue a receipt for seized property using a photocopy of

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an Evidence Seizure Tag (Form 3-487), a photocopy of a Chain-of-Custody Record (Form 3-2063), or a Property Receipt (Form 3-155 or Form 3-155a):

A. Evidence Seizure Tag Receipt. We include a tear-off receipt with a duplicate stamped seizure tag number on the Evidence Seizure Tag (Form 3-487) for use in the field. An officer may issue this receipt to an individual for items listed on the front of the Evidence Seizure Tag. If an officer in the field returns the seized item(s) to a subject, the officer may ask the subject to acknowledge receipt of the returned item(s) by signing the back of the Evidence Seizure Tag below the chain-of-custody record.

B. Photocopy of Chain-of-Custody Record. Officers may transfer seized property items to other officers or people as long as both the releasing and receiving officers sign the original Chain-of-Custody Record (Form 3-2063) or Evidence Seizure Tag (Form 3-487). Both the transferring and receiving officers should keep a copy of the signed form.

C. Property Receipt. Officers may use either the general receipt (Form 3-155) or the short receipt (Form 3-155a) to provide receipts for the seizure and the transfer of seized property items.

(1) Instructions for completing property receipts:

(a) Received/seized from. Strike through either "Received" or "Seized," as appropriate.

(b) Received/seized by. Strike through either "Received" or "Seized," as appropriate.

(c) Received/seized by OR transferred from. Strike through the appropriate wording.

(d) Signature. The subject under investigation should sign the receipt to acknowledge that the inventory of seized items is correct. The subject should initial any additional corrections. If the subject will not sign the receipt, the officer must make note of the refusal to sign.

(2) Disposition of Original Receipt (Form 3-155 and 3-155a) and Copies:

(a) When transferring seized property items, the person releasing the items should get the original copy of the receipt. The use of the Form 3-155 or 3-155a does not eliminate the need to complete a Chain-of-Custody Record for transfers of seized property.

(b) When an officer uses a property receipt to inventory seized items, he/she should place the signed original in the 1-A Exhibit Envelope and put a copy in the case file with the returned warrant. The individual from whom the items were seized should also receive a copy of the property receipt.


Acting
DIRECTOR

Date: May 19, 2006

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